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**United States Circuit Court  
of Appeals**  
For the Ninth Circuit

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No. 4392

UNITED STATES OF AMERICA,  
*Defendant-in-Error,*  
*vs.*  
BERNARD WARD and T. FURIHATA,  
*Plaintiffs-in-Error.*

WRIT OF ERROR TO THE UNITED STATES DISTRICT  
COURT FOR THE WESTERN DISTRICT OF  
WASHINGTON, NORTHERN DIVISION  
HONORABLE JEREMIAH NETERER, *Judge*

**Petition for Rehearing**

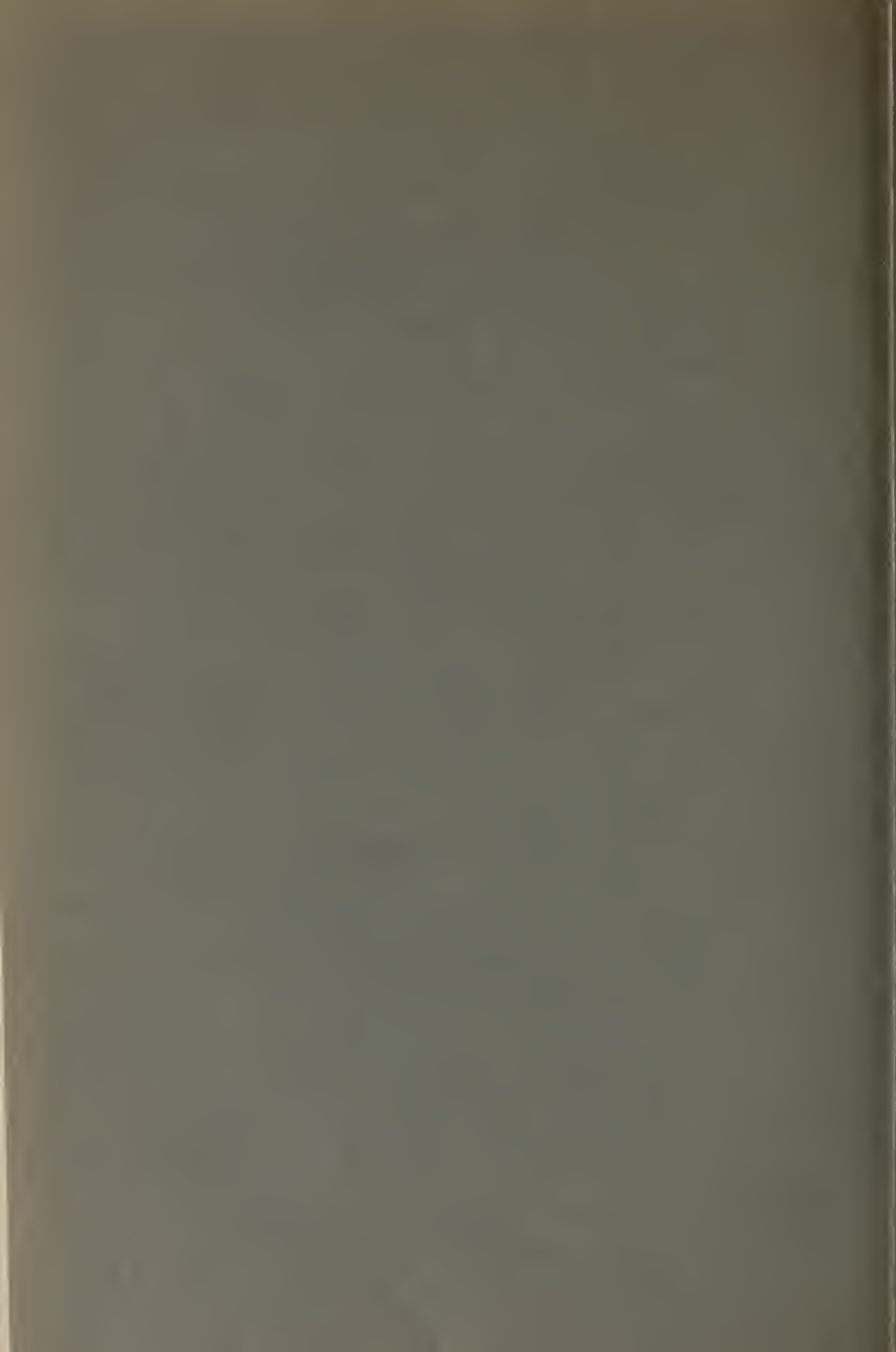
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WALTER METZENBAUM  
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FILED  
MAY 4 - 1925  
F. D. MONROE



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**Petition for Rehearing**

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PETITION FOR REHEARING

The plaintiff-in-error T. Furihata respectfully petitions this court for a rehearing of his writ of error and submits to the court that a more careful consideration of the contentions of your petitioner

will convince the court that error was committed by the trial court during the trial of your petitioner.

The opinion of this court which deals with your petitioner does consider his contention that there was not sufficient evidence to justify the verdict and finds adversely towards this contention, but not one word of the opinion even makes mention of his contentions that the INSTRUCTIONS of the trial court were erroneous and prejudicial to this plaintiff-in-error.

This entire absence of comment on these errors lead your petitioner to believe that they were inadvertently overlooked and we respectfully implore this court to consider the contentions and authorities contained in pages 10 to 19 of petitioner's brief.

Your petitioner believes that the doctrine and theory contained in the court's instructions are not only erroneous but impossible.

The court in effect said that a proprietor of a hotel is presumed to be in possession of everything contained in every unoccupied room. Prompt and timely exceptions to the instructions were taken by counsel and a colloquy between counsel and the

court was engaged in over these very instructions. All of this is set forth verbatim in petitioner's brief.

It is not the purpose of petitioner to argue the propriety of these instructions in this petition, but he does ask this court to consider these instructions and the arguments and authorities set forth on pages 10 to 19 of his printed brief.

The instructions of the trial court make every hotel proprietor criminally responsible for every drop of liquor found in every unoccupied hotel room no matter how large or how small the hotel. We do not believe that this court will subscribe to that doctrine.

It is for the purpose of calling this court's attention to its entire failure to consider the errors pertaining to INSTRUCTIONS that this petition is filed, and we respectfully pray that a full consideration may be given to the errors that appear in the instructions and a new trial ordered.

Respectfully submitted,

WALTER METZENBAUM,

*Attorney for Plaintiff-in-Error T. Furihata.*

CERTIFICATE OF COUNSEL  
Under Rule 29.

I hereby certify that the foregoing Petition for Rehearing is in my judgment well founded, and that it is not interposed for delay. This certificate is made for the purpose of complying with rule No. 29, Rules of the United States Circuit Court of Appeals for the Ninth Circuit.

WALTER METZENBAUM,

*Attorney for Petitioner.*